



June 17, 2024

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By Hand, EX PARTE and Under Seal

Hon. Ann M. Donnelly, U.S.D.J.
United States District Court, Eastern District of New York
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201
Email: donnelly_chambers@nyed.uscourts.gov

Re: Gilead Sciences, Inc. et al. v. Peter Khaim et al.

Dear Judge Donnelly:

We are counsel for the Plaintiffs (collectively, “Gilead”) in the above-captioned action, which was filed *ex parte* and under seal today. Gilead has designated this new action as related to the pending anti-counterfeiting action before Your Honor, *Gilead Sciences Inc. v. Safe Chain Solutions LLC*, No. 21-cv-4106 (“*Gilead I*”).

As set forth in Gilead’s papers, this case can be considered an extension of *Gilead I*: it involves the same counterfeiting conspiracy, and all of the newly named defendants are alleged co-conspirators with defendants in *Gilead I*. Along with its pleadings, Gilead has filed an emergency motion for *ex parte* preliminary relief, including an *ex parte* seizure order under the Lanham Act.

Gilead has commenced this action *ex parte* and is seeking a Seizure Order because Gilead has uncovered substantial evidence that Defendant Peter Khaim – who is the only Defendant in this action who is also a defendant in *Gilead I* – is continuing to sell counterfeit Gilead-branded HIV medication, despite this Court’s injunction in *Gilead I* prohibiting him from selling any Gilead-branded products. The evidence shows that Khaim is using two newly created pharmacies to sell counterfeits, one of which is located in a Khaim-controlled property that this Court froze in *Gilead I*. As set forth in Gilead’s moving papers, in light of the evidence that Khaim has willfully flouted this Court’s prior injunctions, an *ex parte* seizure against Khaim and the two new pharmacies is the only viable means to obtain evidence and shut down this ongoing counterfeiting.

In addition to the requested *ex parte* seizure order against Khaim and the two new pharmacies, Gilead also seeks a temporary restraining order and asset freeze order against all of the other newly named Defendants, none of whom were named in *Gilead I*, but who are alleged to have participated in the same counterfeiting conspiracy. Gilead also seeks an expedited discovery order and a sealing order.

Out of appreciation for the Court’s busy docket and consistent with Your Honor’s guidance in *Gilead I*, we are not requesting that the seizure order be issued on any particular date, and thus we have not secured law enforcement assistance in executing the requested seizures for any particular date. We will finalize those arrangements as quickly as possible if the

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Court issues the requested orders, although law enforcement has asked for a minimum 48-hour notice period. Given that the evidence shows that the targeted pharmacies are currently operating and selling counterfeits, Gilead hopes to execute seizures at those locations as soon as possible.

Because Gilead's application is being filed *ex parte* and under seal, as required by 15 U.S.C. § 1116(d)(8), we respectfully request that chambers e-mail any orders or written communications concerning this application to myself, my partner Timothy Waters, our colleagues Andrew Haddad and Maxwell Weiss at the addresses gpotter@pbwt.com, twaters@pbwt.com, ahaddad@pbwt.com, and maweiss@pbwt.com. My colleagues and I are also available to appear in person, via Zoom, or telephonically as to the Court may request. I may also be reached any time on my cell phone, (917) 854-2310; Mr. Waters may be reached his cell phone at (617) 308-8533; Mr. Haddad may be reached on his cell phone at (517) 902-7687; and Mr. Weiss may be reached on his cell phone at (814) 880-5906.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Geoffrey Potter", written in a cursive style.

Geoffrey Potter